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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,975	09/29/2000	Gregory Henry	042390.P8940	1733

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EXAMINER

NAHAR, QAMRUN

ART UNIT	PAPER NUMBER
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2124

DATE MAILED: 11/05/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/675,975

Applicant(s)

HENRY, GREGORY

Examiner

Qamrun Nahar

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/26/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to the amendment filed on 9/26/03 and arguments filed on 7/3/03.
2. The rejections under 35 U.S.C. 112, second paragraph, to claims 10-19 are withdrawn in view of applicant's amendment.
3. Claims 10-19 have been amended.
4. Claims 1-30 are pending.
5. Claims 1-2, 4-11, 13-23 and 25-30 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (U.S. 5,396,631) in view of Buzbee (U.S. 5,815,720).
6. Claims 3, 12 and 24 stand finally rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (U.S. 5,396,631) in view of Buzbee (U.S. 5,815,720), and further in view of Granston (U.S. 5,966,538).

Response to Amendment

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-2, 4-11, 13-23 and 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (U.S. 5,396,631) in view of Buzbee (U.S. 5,815,720).

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Per Claim 1:

Hayashi teaches a method of compiling a source language routine ("An object of the present invention is to provide a compiling apparatus and a compiling method that meet a variety of requirements for optimization. A compiler according to the present invention provides a high-performance object code, according to a target architecture, a source program, and optimization requirements." in column 3, lines 6-14); generating in a computer system an intermediate language routine from the source language routine ("In Fig. 2, the front end 2 changes the source program 1 into the intermediate representations." in column 5, lines 48-49); specifying an initial value of each routine variable ("Data 20 corresponds to the data 10 of Fig. 1 and indicates the characteristics of source-program-dependent intermediate representations provided by the front end." in column 6, lines 56-59; Data 20 contains specified initial values for routine variables, which are used for subsequent optimizations; that is, Hayashi inherently teaches specifying an initial value of each routine variable); performing an optimizing change to the intermediate language routine that results in an altered intermediate language routine; and generating a machine language routine in a computer system from the altered intermediate language routine ("In Fig. 3, step S1 picks up optimization functions to be held in a compiler. The optimization data 22 includes a list of optimization functions corresponding to the front-end intermediate representation data 20 and code providing intermediate representation data 21, and the step S1 selects some of the optimization functions from the data 22, so that they are executed by the optimizing compiler. This selection may be made by a person who prepares the compiler. ... Step S3 determines a compiler structure in two steps S30 and S31. The step S30 determines the number of times of changing intermediate representations. In principle, this number corresponds

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to the number of classes of the classified optimization functions. The number may also be determined according to the types of intermediate representations and the intermediate representation dependencies of the optimization functions. The step S31 determines the optimization functions in three steps S310, S311, and S312. The step S312 determines the execution order of the optimization functions according to the front-end and code-providing dependencies of the functions. Once the optimizing structure is determined, the intermediate representation optimizing and changing processes are carried out according to the determined results. Namely, the intermediate representations are changed and optimized phase by phase, to provide codes that form an optimized object program.” in column 6, lines 66-68 to column 7, lines 1-6; and column 7, lines 26-51).

Hayashi does not explicitly teach initializing the variables to the specified initial value; executing the machine language routine from a main memory of a first computing system having the architecture of a target computer system using the initialized values; measuring a characteristic of the execution; and evaluating whether a stopping criterion after said executing is met and if not, repeating said performing through said measuring, saving the machine language routine having a best measured characteristic, until the stopping criterion is met.

Buzbee teaches initializing the variables to the specified initial value; executing the machine language routine from a main memory of a first computing system having the architecture of a target computer system using the initialized values (“application 53 is run, in a step 55, under a translator ... Table 2 below shows an example of how the source code in Table 1 looks when compiled into object code ... Store 0 in sum” in column 6, lines 4-5 and lines 41-67; Tables 1 and 2; and Fig. 6; for example, the variable sum is initialized to 0, which is the specified

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initial value); measuring a characteristic of the execution ("In order to gather profile information, application 53 is run, in a step 55, under a translator." in column 6, lines 4-5 and Fig. 6); and evaluating whether a stopping criterion after said executing is met and if not, repeating said performing through said measuring, saving the machine language routine having a best measured characteristic, until the stopping criterion is met ("The process may be repeated to further optimize optimized application 53. Profile information 55 gathered from each dynamic translation and execution of optimized application 53 is used to further optimize application 53 at a next compile. The annotations are adjusted on each compilation to obtain additional profile information which will be used in future compilations. This iterative process can continue until no further optimizations to optimized application 53 can be found, or until the performance of optimized application 53 satisfies the developer/tester of optimized application 53." in column 6, lines 18-28 and Fig. 6; the machine language routine having a best measured characteristic is inherently saved).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by Hayashi to initial the variables to the specified initial value; execute the machine language routine from a main memory of a first computing system having the architecture of a target computer system using the initialized values; measure a characteristic of the execution; and evaluate whether a stopping criterion after said executing is met and if not, repeating said performing through said measuring, saving the machine language routine having a best measured characteristic, until the stopping criterion is met using the teaching of Buzbee. The modification would be obvious because one of ordinary

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skill in the art would be motivated to further optimize optimized object code based on run-time profile data.

Per Claim 2:

The rejection of claim 1 is incorporated, and Buzbee further teaches including before said performing: generating a machine language routine in a computer system from the intermediate language routine (column 3, lines 32-33); executing the machine language routine from the main memory of the first computing system using the initialized values; and measuring a characteristic of the execution (column 3, lines 33-34).

Per Claim 4:

The rejection of claim 1 is incorporated, and Hayashi further teaches including defining a plurality of segments within the intermediate language routine, each said segment comprising consecutive intermediate language routine statements wherein no segment includes a same intermediate language routine statement, and the performing an optimizing change is performed within one of the segments (column 6, lines 19-22 and column 7, lines 7-51).

Per Claim 5:

The rejection of claim 1 is incorporated, and Hayashi further teaches including determining ordering dependencies in said intermediate language routine wherein said performing an optimizing change includes maintaining the determined ordering dependencies (column 10, lines 34-40).

Per Claim 6:

The rejection of claim 1 is incorporated, and Hayashi further teaches wherein the optimizing change comprises one of a generic optimization, a reordering, a user selectable reordering, a user selectable global reordering, a user selectable insertion of at least one instruction in a selectable position in the intermediate language routine, and a user selectable removal of at least one instruction from a selectable position in the intermediate language routine; wherein each optimizing change does not affect the intermediate language routine integrity (column 8, lines 37-48; column 10, lines 14-43; and Fig. 5).

Per Claim 7:

The rejection of claim 1 is incorporated, and Buzbee further teaches including after the generating the machine language routine and before the executing the machine language routine, at least one use selectable optimization to the machine language routine (column 5, lines 66-67 to column 6, lines 1-3).

Per Claim 8:

The rejection of claim 1 is incorporated, and the combination of Hayashi and Buzbee further teaches wherein the optimizing changes in a sequence of a plural number of a repeated said performing resulting from the stopping criterion not met is performed according to a process that includes at least one of a non-repeating optimizing change (Hayashi, column 6, lines 41-46), a user selectable optimization change sequence (Buzbee, column 5, lines 66-67 to column 6,

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lines 1-3); and a parallel search across a plural number of processing units (Hayashi, column 11, lines 61-65).

Per Claim 9:

The rejection of claim 1 is incorporated, and Buzbee further teaches wherein the initializing further includes initializing the position of at least part of said machine language routine in the first computing system memory, and the executing includes executing the machine language using the initialized position (column 4, lines 41-67).

Per Claim 10 (Amended):

This is a machine-readable medium version of the claimed method discussed above, claim 1, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above, including “executing a measuring routine to define the measurement of a characteristic of an execution of a compiled representation of the routine” (Hayashi, column 12, lines 3-18). Thus, accordingly, this claim is also obvious.

Per Claims 11 & 13-18 (Amended):

These are machine-readable medium versions of the claimed method discussed above (claims 2 & 4-9, respectively), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

Per Claim 19 (Amended):

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The rejection of claim 10 is incorporated, and Buzbee further teaches wherein the operations further include a user interface for reading from the user at least one of the specified values of the routine variables, and optimizing instructions wherein the performing operation includes implementing the optimizing instructions (column 5, lines 66-67 to column 6, lines 1-3).

Per Claims 20-21:

These are apparatus versions of the claimed machine-readable medium discussed above, claim 10, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

Per Claim 22:

This is an apparatus version of the claimed machine-readable medium discussed above, claim 17, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

Per Claims 23 & 25-27:

These are apparatus versions of the claimed machine-readable medium discussed above (claims 11 & 13-15, respectively), wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, these claims are also obvious.

Per Claim 28:

The rejection of claim 20 is incorporated, and Hayashi further teaches wherein the change in the intermediate routine file includes a user selectable optimization (column 15, lines 66-68 to column 16, lines 1-16).

Per Claim 29:

This is an apparatus version of the claimed machine-readable medium discussed above, claim 18, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

Per Claim 30:

The rejection of claim 20 is incorporated, and Hayashi further teaches wherein the computing system includes a plurality of processors that each have an architecture of the target computing system (column 11, lines 61-65).

9. Claims 3, 12 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (U.S. 5,396,631) in view of Buzbee (U.S. 5,815,720), and further in view of Granston (U.S. 5,966,538).

Per Claim 3:

The rejection of claim 1 is incorporated, and further, the combination of Hayashi and Buzbee does not explicitly teach that the characteristic includes at least one of a timing wherein the best measured timing is a lowest timing, a machine language routine size, and a bus

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utilization metric. Granston teaches that the characteristic includes at least one of a timing wherein the best measured timing is a lowest timing, a machine language routine size, and a bus utilization metric (column 4, lines 34-48).

It would have been obvious to one having ordinary skill in the computer art at the time of the invention was made to modify the method disclosed by the combination of Hayashi and Buzbee to include that the characteristic includes at least one of a timing wherein the best measured timing is a lowest timing, a machine language routine size, and a bus utilization metric using the teaching of Granston. The modification would be obvious because one of ordinary skill in the art would be motivated to reduce execution time and code size by optimizing code.

Per Claim 12 (Amended):

This is a machine-readable medium version of the claimed method discussed above, claim 3, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

Per Claim 24:

This is an apparatus version of the claimed machine-readable medium discussed above, claim 12, wherein all claim limitations also have been addressed and/or covered in cited areas as set forth above. Thus, accordingly, this claim is also obvious.

Response to Arguments

10. Applicant's arguments filed on 7/3/03 have been fully considered but they are not persuasive.

In the remarks, the applicant argues that:

a) In particular, applicant's independent claims include the limitation, or limitation similar thereto, of specifying an initial value of each routine variable and initializing the variables to the specified initial value.

Neither Hayashi nor Buzbee disclose nor suggest applicant's claimed specifying an initial value of each routine variable and initializing the variables to the specified initial value. The examiner indicates the claimed limitation is disclosed in Buzbee, however, applicant's respectfully disagree. ...

As a result, Buzbee fails to disclose nor suggest applicant's claimed specifying an initial value of each routine variable and initializing the variables to the specified initial value.

Therefore, applicant's independent claims include limitations that are not disclosed in either Hayashi or Buzbee, and applicant's independent claims are therefore patentable over Hayashi and Buzbee.

Furthermore, applicant's remaining claims depend directly or indirectly from at least one of applicant's independent claims as discussed above, and therefore include the distinguishing claim limitations as discussed above. As a result, applicant's remaining claims are also patentable over Hayashi and Buzbee.

Examiner's response:

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a) Examiner strongly disagrees with applicant's assertion that the combination of Hayashi and Buzbee fails to disclose the claimed limitations recited in independent claims 1, 10, 20 and 30. The combination of Hayashi and Buzbee clearly shows each and every limitation in independent claims 1, 10, 20 and 30. As previously pointed out in Paper No. 5, the combination of Hayashi and Buzbee teaches specifying an initial value of each routine variable (Hayashi, column 6, lines 56-59; Data 20 contains specified initial values for routine variables, which are used for subsequent optimizations; that is, Hayashi inherently teaches specifying an initial value of each routine variable) and initializing the variables to the specified initial value (Buzbee, column 6, lines 4-5 and lines 41-67; Tables 1 and 2; and Fig. 6; for example, the variable sum is initialized to 0, which is the specified initial value). See the rejection above in paragraph 8 for rejection to independent claims 1, 10, 20 and 30. Furthermore, see the rejection above in paragraphs 8 and 9 for rejection to dependent claims.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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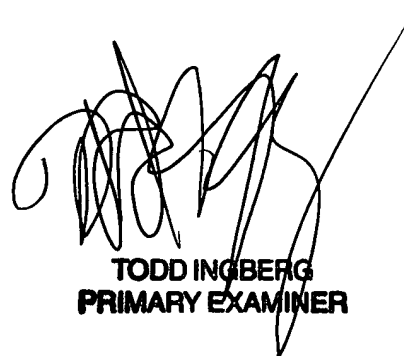
however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication from the examiner should be directed to Qamrun Nahar whose telephone number is (703) 305-7699. The examiner can normally be reached on Mondays through Thursdays from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki, can be reached on (703) 305-9662. The fax phone number for the organization where this application or processing is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

QN
November 3, 2003



TODD INGBERG
PRIMARY EXAMINER